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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,644	10/09/2001	Frank J. Colombo	H0002694 (4760)	6215

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EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-7

<b>Office Action Summary</b>	<b>Applicati n No.</b> 09/973,644	<b>Applicant(s)</b> COLOMBO, FRANK J.	
	<b>Examiner</b> Marc A Patterson	<b>Art Unit</b> 1772	

**-- The MAILING DATE of this communication appears on the c ver sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 07 April 2003.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disp sition of Claims**

4) ☒ Claim(s) 22-34 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 22-34 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All   b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> .	6) <input type="checkbox"/> Other: _____

U.S. Patent and Trademark Office  
PTO-326 (Rev. 04-01)

Office Action Summary

Part of Paper No. 7

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 22 – 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase ‘chemical barrier films’ is indefinite as its meaning is unclear. For purposes of examination, the phrase will be assumed to mean ‘barrier films.’ The phrase ‘such that’ is indefinite as it appears to be directed to a desired result of the invention rather than a structural limitation. The phrase ‘when the middle layer comprises a polyester, the outer layer comprises a polyolefin’ is indefinite because the term ‘when’ essentially means the same as ‘if,’ thus making it unclear if the middle and outer layers comprise polyester or polyolefin. It is therefore unclear which one of the possible combinations of structures is intended to be claimed by the phrase. Claim 22 recites the limitation "a perimeter" in line 14. There is insufficient antecedent basis for this limitation in the claim.

3. Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase ‘such that’ is indefinite as it appears to be directed to a desired result of the invention rather than a structural limitation. The phrase ‘when the middle layer comprises a polyester, the outer layer comprises a polyolefin’ is indefinite because the term ‘when’ essentially means the same as ‘if,’ thus making it unclear if the middle and outer layers comprise

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polyester or polyolefin. It is therefore unclear which one of the possible combinations of structures is intended to be claimed by the phrase. Claim 34 recites the limitation "a perimeter" in line 14. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 22 – 23, 27 – 32 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Takagaki et al (U.S. Patent No. 5,352,043).

With regard to Claims 22 – 23, 28 and 31 – 32, Takagaki et al disclose a package (bag, therefore defining an inner compartment containing a product; column 5, lines 43 – 47) comprising a barrier film (column 6, lines 43 – 47) comprising, in order from the inner part of the package to the outer part, an inner layer comprising nylon (column 5, lines 51 – 65), a middle layer comprising a polyester attached to a surface of the middle layer (polyethylene terephthalate; column 6, lines 37 – 42) and an outer layer comprising a polyolefin attached to a surface of the middle layer (polyethylene; column 6, lines 37 – 42); the package comprises two barrier films which are overlapping and are sealed together (column 14, lines 35 – 49). With regard to the claimed aspect of the nylon being ‘unoriented,’ Takagachi does not teach that the nylon is oriented. The claimed aspect of the nylon being ‘unoriented’ therefore reads on Takagachi.

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With regard to Claim 27, Takagaki et al teaches that it is equivalent for the middle layer or outer layer to comprise polyolefin and the middle layer or outer layer to comprise polyester (column 6, lines 8 – 26).

With regard to Claim 29, the film comprises multiple middle layers (three layers or more; column 6, lines 27 – 33), and therefore comprises adhesive layers between the outer and middle layers and middle and inner layers.

With regard to Claim 33, Takagaki et al teach a polyester which is coated with aluminum oxide (plastic film comprising aluminum foil; column 6, lines 43 – 47).

With regard to Claim 34, Takagaki et al teach that it is equivalent for the bag to comprise one or two barrier films (column 16, lines 59 – 62; column 17, lines 7 – 19).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagaki et al (U.S. Patent No. 5,352,043) in view of Rivett et al (U.S. Patent No. 5,755,081)

Takagaki et al disclose a sealable package comprising nylon as discussed above. With regard to Claims 24 – 25, Takagaki et al fail to disclose a package comprising an absorbent fabric and solvent absorbed within the fabric, within the inner compartment of the container.

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Rivett teaches an absorbent fabric and solvent absorbed within the fabric (a baby wipe; column 3, lines 6 – 13) in the inner compartment of a container (column 3, lines 6 – 13) comprising nylon (polyamide; column 6, lines 26 – 39) for the purpose of protecting the fabric from contaminants (column 2, lines 3 – 27). The desirability of providing for a package comprising an absorbent fabric and solvent absorbed within the fabric, within the inner compartment of Takagaki et al, which is a container, would therefore be obvious to one of ordinary skill in the art.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a package comprising an absorbent fabric and solvent absorbed within the fabric in Takagaki et al in order to protect the fabric from contaminants as taught by Rivett.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takagaki et al (U.S. Patent No. 5,352,043) in view of Deflander (U.S. Patent No. 4,562,936).

Takagaki et al disclose a sealable package comprising nylon as discussed above. Takagaki et al fail to disclose a package comprising motor oil, within the inner compartment of the container.

Deflander teaches motor oil (column 3, lines 36 – 49) in the inner compartment of a container (column 3, lines 36 – 49) comprising nylon (polyamide; column 6, lines 21 – 46) for the purpose of providing a liquid impermeable package (column 3, lines 36 – 49) The desirability of providing for a package comprising motor oil, within the inner compartment of Takagaki et al, which is a container, would therefore be obvious to one of ordinary skill in the art.

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It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a package comprising motor oil in Takagaki et al in order to provide a liquid impermeable package as taught by Deflander.

9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takagaki et al (U.S. Patent No. 5,352,043) in view of Ng et al (WO 95/15992).

Takagaki et al disclose a sealable package comprising nylon as discussed above. Takagaki et al fail to disclose a nylon comprising nylon 6.

Ng et al teach the use of nylon 6 in the making of sealable packages (page 6, lines 20 – 31) for the purpose of obtaining a package having maximum bond strength of the seal (page 4, lines 27 – 30). The desirability of providing for nylon 6 in Takagaki et al, which is a sealable package, would therefore be obvious to one of ordinary skill in the art.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for nylon 6 in Takagaki et al in order to obtain a package having maximum bond strength as taught by Ng.

### ***Conclusion***


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold

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Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

*Marc Patterson*  
Art Unit 1772

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

*4/15/03*